IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2447 OF 2007

Nitin Ramadas Chavan .. Petitioner.

V/s.

State of Maharashtra and others .. Respondents.

Mr.R.K.Mendadkar for the Petitioner.

Mr.V.A.Gangal, Spl.Counsel with Mr.R.D.Rane, Govt. Pleader for the Respondents.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 25th APRIL, 2007.

P.C.: (Per R.M.Savant,J.)

. This petition takes exception to the order dated 22.03.2007 passed by the Scheduled Tribe Certificate Scrutiny Committee, Pune Region, Pune. By the said order, the petitioner's claim of belonging to Thakar Schedule Tribe has been rejected.

2. In support of his tribe claim, the petitioner annexed a plithora of documents in the form of school leaving certificate, abstract of school register, certificate issued by the gram-sevak, birth certificate etc.. In some of the certificates i.e. one being the

death certificate in respect of one Haribhau Chavan, the caste is not shown as well as the certificate of one Shankar Maruti Chavan, applicant's cousin grandfather, wherein caste is not shown. In most of the documents produced by the petitioner caste is shown as Thakar. As a consequence, the test regarding traits, characteristics etc., affinity towards Thakar Scheduled Tribe became of vital importance. The committee in its order has rightly referred to the judgment of this court in **Writ petition No. 2434 of 2003, Suchita Ramdas Bhuyar v/s. State of Maharashtra & Ors.**. The relevant paragraph 4 from the said judgment is quoted herein below.

> "4. In our opinion, no fault can be found so far as the approach adopted by the Committee is concerned. The Committee has specifically observed in the order that the petitioner was "Thakur". It was, however, observed that in upper class as well as in lower class entries have been found. Keeping in mind the above fact, the Committee ckonsidered whether the petitioner was aware of customs etc., in that community. After considering the relevant evidence, it recorded findings in paragraph 18 of the order which reads as under :-

"In the light of the information given by the candidate, vigilance report, submitted record, the Committee has come to the conclusion that the candidate Kum. Suchita Ramdas Byuyar does not belong to Thakur, Scheduled Tribe."

3. In support of the caste claim, the statement of the petitioner's brother Anil Ramdas Chavan was recorded on 29.7.2006 at the time of home enquiry. The petitioner's statement was also recorded. The petitioner stated that the re-marriage system, Pitrya-Pitri system, Umbrya Umbari system, Padekhot System, Avanji system, Khoti system, Kothi system etc., might be prevalent in his community but he was unaware about the said systems due to migration of his family from Ramling to Shirur. He further stated that he could not state about the customs and traditions of their community. He further stated that nobody from his family tree has obtained the validity certificate.

4. On the basis of the information provided by the petitioner, the committee came to the conclusion that the petitioner has failed to prove his affinity towards Thakar Scheduled Tribe. The committee has observed that

the petitioner was unable to state the customs, traditions, traits and characteristics of Thakar Scheduled Tribe. He was also unaware about Ka-Thakar and Ma-Thakar. The justification given by him was that he was unable to give said information due to migration from Ramling to Shirur about 25 years back. The committee felt that the said justification was unacceptable because the native place of the petitioner was Ramling which is in the same taluka of Shirur and therefore, the contention of the petitioner was misleading. The committee also observed that the petitioner was unaware about the god and goddesses of Thakar, Scheduled tribe and that Marathi is their dialect and mother tongue. The committee therefore, came to the conclusion that though the documents produced by the petitioner show his caste as Thakar, the petitioner is a non tribal Thakar and wants to grab the concessions and facilities meant for genuine Thakar, Scheduled Tribe. As indicated above, in view of the affinity test being of a crucial importance in the present matter, we cannot find any fault with the said finding of the committee. It would also be useful to refer to the observations made by the Apex Court in the judgment in the case of **Madhuri Patil v/s. State of Maharashtra** (AIR, 1995 Supreme Court -94).

> ".....On the basis of the information furnished by the father of the appellants and the anthropological and ethnology findings in that behalf, the Addl. Commissioner, in our view rightly held that on argument of social mobility and modernisation often he alluringly put forth to obviate the needs to pass the affinity test is only a convenient plea to get over the crux of the question. Despite cultural advancement, the genetical traits pass on from generation to generation and no one could escape or forget or get them over. The tribal customs are peculiar to each tribe or tribal communities and are still being maintained and preserved. Their cultural advancement to some extent may be modernised and progressed but they would not be oblivios to or ignorant of their customary and cultural past to establish their affinity to the membership of a particular tribe".

5. In the instant case, it is significant to note that the petitioner has not been able to even mention one tradition, custom or tribe peculiar to the said Thakar community. It is unbelievable that a person

claiming to be belonging to the said Thakar Schedule Tribe, does not even have basic knowledge of the traits and characteristics of the said community. That in our view could have an overwhelming effect on the caste claim putforth by the petitioner. In such circumstances, we do not find any illegality or infirmity committed by the committee in refusing to rely upon the documents produced by the petitioner wherein caste is mentioned as Thakar. In that view of the matter, no case for interference in the extraordinary writ jurisdiction of this court under Article 226 is made out.

6. Petition is, therefore, summararily dismissed.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)